

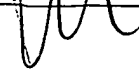


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,391	12/07/2001	Nabil Enrique Salman	8384R	6122
27752	7590	09/08/2004	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 09/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/010,391	Applicant(s) SALMAN ET AL. 	
	Examiner Thanh K Truong	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8,11,13-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,11,13-16 and 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on June 30, 2004.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 15 recited: "wherein the device has a compact dimension of a height along a vertical axis less than 20 centimeters and a width along a horizontal axis of less than 17 centimeters", which is not supported in the original disclosure.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "package articles may be formed" is vague and indefinite, because "may be formed" is not a positive claimed limitation. It is not clear

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either is the package formed or is the package not formed? If the Applicant wishes to claim both, the alternative form "or" should be used.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 5-8, 11, 13-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al. (4,869,049) in view of Hamilton et al (5,662,758) and W. E. Meissner (3,111,796).

Richards discloses an apparatus comprising: a body formed by an inner core having an inlet opening and an outlet opening and a passageway there between (figures 1, 4 & 5); a casing 1 comprising a surrounding casing wall, a storage space to retain a length of the flexible tubular sheet 2 within the storage space in a layered stack; the tubular sheet is gathered and closed at each end to form a closed packaged article 35 (figure 1); a means 61 comprises a slot for separating the closed packaged article; and the cutting blade 64 (figure 6).

Richards further discloses the article to be packaged is a waste-filled disposable absorbent article (column 2, lines 42-44).

Richards discloses the claimed invention, but does not expressly disclose that the tubular sheet comprises the adhesive material.

W. E. Meissner discloses, in an invention for closing and sealing a container, that: "for closing and sealing a collapsible container by rupturing a bubble of tacky film-forming material at least within the opening end of the container as that portion of the container is urged into collapsed position" (column 1, lines 31-35). Figure 5 further depicting the closing and sealing of a flexible bag by twisting the bag at the area 53. During this twisting operation, the bubble ruptured and coated the inner wall of the bag with adhesive (column 5, lines 48-55).

Hamilton discloses a flexible film having pressure sensitive adhesive protected from inadvertent adherence (abstract); the flexible film having a recessed pressure sensitive adhesive and collapsible protrusions (three-dimensional film) which serve as stand-off to prevent premature sticking to wide variety of rigid and resilient target surfaces, wherein the collapsible protrusions are small and closely spaced for releasable sealing of the composite material to such surfaces or even to itself (column 3, lines 20-26).

W. E. Meissner's teaching provides a motivation for the practitioner in the art to find a flexible material to use as a bag in which the inner surface is coated with adhesive, and when pressure is applied such as twisting, the adhesive material ensures the sealing of the closure of the bag.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Richards' tubular sheet by applying the flexible film with adhesive as taught by Hamilton providing an effective closing and

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sealing of the waste-filled article in which the flexible material having pressure sensitive adhesive that is protected from inadvertent adherence to other surfaces.

Regarding to claim 8, the modified Richards discloses the claimed invention, but does not expressly disclose that the shape of the outlet opening and a portion of the passageway are oval.

It would have been an obvious matter of design choice to make the outlet opening and a portion of the passageway in an oval shape.

Since Applicant's disclosure submitted that the shape of either or both the inlet and outlet opening can be circular, or oval (page 5, lines 20-22), therefore, the apparatus of the present invention would perform equally well with the outlet opening of a circular shape. Thus, the oval shape outlet opening would have been an obvious variation of the present invention.

Regarding to claim 15, Richards discloses the claimed invention, but does not expressly disclose the device has a compact dimension of a height along a vertical axis less than 20 centimeters and a width along a horizontal axis of less than 17 centimeters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device having a compact dimension (as cited in claim 15) providing consumers a portable, light weight device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

8. Applicant's arguments filed June 30, 2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that Richards includes additional structure such as: tying a knot 24, the package is closed by twisting the flexible tubing, and a series of connected closed packages 35 that are not taught or required by Applicant's invention, it must be noted that Richards discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

Furthermore, the twisting of the package and then inserting it in a slot can be construed as "compressive gathering".

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 601 (CCPA 1915). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures take as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 110 USPQ 209 (CCVA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA. 1969).

In this case, as discussed above in paragraph 7 of this office action, W. E. Meissner's teaching provides a motivation for the practitioner in the art to find a flexible

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material to use as a bag in which the inner surface is coated with adhesive, and when pressure is applied such as twisting, the adhesive material ensures the sealing of the closure of the bag.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Richards' tubular sheet by applying the flexible film with adhesive as taught by Hamilton providing an effective closing and sealing of the waste-filled article in which the flexible material having pressure sensitive adhesive that is protected from inadvertent adherence to other surfaces.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tkr
August 22, 2004.



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700